UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STEET
ATLANTA, GEORGIA 30303-8960

September 11, 2000

4APT-ARB

Howard L. Rhodes, Director
Department of Environmental Protection
Division of Air Resources Management
Mail Station 5500
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

SUBJ: EPA's Review of Proposed Title V Permit No. 0990026-002-AV
Sugar Cane Growers Cooperative of Florida
Glades Sugar House

Dear Mr. Rhodes:

The purpose of this letter is to notify the Florida Department of Environmental Protection (FDEP) that the U.S. Environmental Protection Agency (EPA) formally objects to the issuance of the above referenced proposed title V operating permit for the Jefferson Smurfit Corporation - Jacksonville Mill in Jacksonville, Florida, which was received by EPA, via e-mail notification and FDEP's web site, on July 27, 2000. This letter also provides our general comments on the proposed permit.

Based on EPA's review of the proposed permit and the supporting information received for this facility, EPA objects, under the authority of Section 505(b) of the Clean Air Act ("the Act") and 40 C.F.R. § 70.8(c) (see also Florida Regulation 62-213.450), to the issuance of the proposed title V permit for this facility. The basis for EPA's objection is that the permit does not fully meet the periodic monitoring requirements of 40 C.F.R. § 70.6(a)(3)(i), does not contain conditions that assure compliance with all applicable requirements, as required by 40 C.F.R. § 70.6(a), fails to incorporate all applicable requirements from previous permits, as defined in 40 C.F.R. §70.2, and has permit shield requirements that do not conform with the requirements of 40 C.F.R. § 70.6(f). Pursuant to 40 C.F.R. § 70.8(c), this letter and its enclosure contain a detailed explanation of the objection issues and the changes necessary to make the permit consistent with the requirements of 40 C.F.R. Part 70 and assure compliance with applicable requirements of the Clean Air Act. The enclosure also contains general comments applicable to the permit.

Section 70.8(c) requires EPA to object to the issuance of a proposed permit in writing within 45 days of receipt of the proposed permit (and all necessary supporting information) if EPA determines that the permit is not in compliance with the applicable requirements under the Act or the requirements of 40 C.F.R. Part 70. Section 70.8(c)(4) of the title V regulations and

Section 505(c) of the Act further provide that if the State fails to revise and resubmit a proposed permit within 90 days to satisfy the objection, the authority to issue or deny the permit passes to EPA, and EPA will act accordingly. Because the objection issues must be fully addressed within the 90 days, we suggest that the revised permit be submitted in advance in order that any outstanding issues may be resolved prior to the expiration of the 90-day period.

If you have any questions or wish to discuss this further, please contact Mr. Gregg Worley, Chief of the Operating Source Section, at (404) 562-9141. Should your staff need additional information, they may contact Ms. Gracy R. Danois, Florida Title V Contact, at (404) 562-9119 or Ms. Lynda Crum, Associate Regional Counsel, at (404) 562-9524.

Sincerely,

/s/ James S. Kutzman for

Winston A. Smith
Director
Air, Pesticides and Toxics
Management Division

Enclosure

cc: Mr. Jose F. Alvarez, Sugar Cane Growers Cooperative of Florida
Mr. Scott Sheplak, P.E., FDEP (via E-Mail)

Enclosure

U.S. EPA Region 4 Objection
Proposed Part 70 Operating Permit
Sugar Cane Growers Cooperative of Florida
Glades Sugar House
Permit no. 0990026-002-AV

I EPA Objection Issues

1. Applicable Requirements - Capacity: Conditions A.1, B.1, C.1, D.1, E.1 of the proposed permit state that there are no limits on the operating capacity for these units and use the steam production rate to establish the 100% load for testing purposes. Construction permit emission limits are often established based on the maximum capacity of the unit. Over time, the steam production from the boilers may go down, requiring more fuel to be fired in order to achieve the steam production rate included in the permit. This situation potentially makes the steam production rate not representative of the operating conditions that were used to calculate the construction permit limits for the boilers. It will be more accurate to specify the maximum heat input or the maximum fuel usage for the boilers. If the Department wants to retain the conditions as they are in the proposed permit for this facility, the statement of basis needs to include an explanation supporting the decision to use steam production rate to define the operating capacity of the boilers.

2. Applicable Requirements - Excess Emissions: Section II, condition 13, indicates that a variance from the excess emissions requirements has been granted during start-up. The condition cross-references the requirements of Section III, condition H.7. Also, in the Proposed Permit Determination, Public Comments, item C, the Department describes the agreement reached between the permittee and the Department to allow for longer excess emissions periods for visible emissions. After reading the permit conditions identified above, EPA is not sure whether a variance is indeed allowed. Condition H.7 appears to define the cold start-up conditions for the boilers, and condition H.7.1 requires that the source notify the Department if a cold start-up results in excess emissions for a period equal to or greater than eight hours. However, neither condition appears to grant a variance for the duration of the excess emissions as specified in Section II, condition 13 (2 hours in any 24-hour period).

   If it is the Department's intent to grant such a variance, as noted in the Proposed Permit Determination, the statement of basis for the permit must explain how the criteria in rule 62-210.700(5), F.A.C., has been met by the facility, making this variance consistent with public interest. It may be worth noting in the explanation what prompted this type of request (e.g., violations of the VE limit). Also, in

order to prevent misuse of the excess emissions variance, the permit must specify how many times per year the facility will be allowed to have excess emissions for such a prolonged time, given that the cold start-up procedures should not happen frequently.

3. Applicable Requirements - RACT: Conditions A.6, B.6, C.6, D.6, E.6 establish that the VOC emissions from the boilers at the facility shall not exceed 1.5 pounds per million BTU heat input. The regulatory basis for these conditions is the RACT rule contained in 62-296.570(4)(b)6, F.A.C. However, the rule cited establishes a limit of 0.9 pounds per million BTU for VOC emissions from carbonaceous boilers. The permit needs to identify the correct basis for the VOC limit included in the permit. If the VOC limit imposed by the RACT rule is the applicable requirement, the permit must be revised to include the 0.9 pounds per million BTU limit or the statement of basis must contain a demonstration outlining how the current limit assures compliance with the RACT requirements for VOCs.

4. Applicable Requirements - Visible Emissions: Conditions A.4, B.4, C.4, D.4, E.4 and F.4 contain the following statement: "Visible emission limits for emissions units equipped with wet scrubbers shall be effective only if the visible emission measurement can be made without being substantially affected by plume mixing or moisture condensation." EPA disagrees with this statement. The visible emissions limit imposed by these conditions is effective at all times. Additionally, the monitoring requirements for visible emissions imposed by the permit remain applicable. Method 9 offers alternatives to deal with moisture presence in the plume, making the qualifier language in these conditions inappropriate. Further, while we acknowledge that some of the Department rules contain this type of provision, 62-296.410(1)(b)1., F.A.C., is not one of them. Therefore, the qualifier language in these conditions must be removed from the permit.

5. Applicable Requirements: The following applicable requirements from construction permit PSD-FL-077 issued to Sugar Cane Growers Cooperative of Florida for boiler 8 were not incorporated in the title V permit:

   a. Special condition 5 which restricts the operation of the boilers to no more than three from April 16 through October 12, and limits the maximum daily average steam production.

   b. Special condition 7 which limits the visible emissions from the bagasse handling system to 10% opacity.

c. Specific condition 13 which establishes the maximum fuel oil consumption of the boiler.

These requirements must be included in the permit or an explanation must be provided in the statement of basis supporting the Department's decision to not include these conditions in the permit.

6. Applicable Requirements - Oil Consumption: Condition F.8.2 of the proposed permit appears to outline the fuel usage scheme for boiler 8. This requirement is based on specific condition 3 of construction permit no. PSD-FL-077. However, the condition in the construction permit also refers to fuel oil usage for boilers 6 and 7. The proposed title V permit for this facility does not address these boilers, therefore, it is unclear what the status of the units may be. After comparing the two permit conditions, EPA cannot understand the purpose of condition F.8.2 in the proposed permit. After taking out the references to boiler 6 and 7, it appears that the oil added to the system should have the percent sulfur specified for boiler 8, which seems to be 1%. Further, EPA does not understand how monitoring the fuel usage from only one of the boilers assures compliance with the 14 tons per day facility-wide requirement for SO_2. The permit condition must be modified to incorporate the original condition from the construction permit or the statement of basis must describe how this revised permit condition meets the intent of the condition in the construction permit. Also, the permit or the statement of basis must contain an explanation regarding how this fuel usage scheme assures compliance with the 14 tons per day facility-wide limit for SO_2.

7. Practical Enforceability - SO_2 Facility-wide Limit: Conditions A.8.2, B.8.1, C.8.1, D.8.1, E.8.2 of the proposed permit contain a 14 ton per day limit for sulfur dioxide emissions from the boilers. The limit, as included in the conditions identified above, is not enforceable as a practical matter. It is based on a requirement contained in PSD-FL-077 and appears to apply on a facility-wide basis. Therefore, the 14 tons per day SO_2 limit and the fuel consumption and blending requirement included in condition F.8.2 must be moved to Section II of the permit, which includes the facility-wide applicable requirements. Also, as noted in objection issue no. 6, the permit or the statement of basis must contain an explanation regarding how the fuel usage scheme in condition F.8.2 assures compliance with the 14 tons per day facility-wide limit for SO_2.

8. Periodic Monitoring - Hours of Operation: Conditions A.3, B.3, C.3, D.3, E.3 and F.3 limit the operating hours of the boilers to 7296 hours per year. Recordkeeping requirements sufficient to assure compliance with this limitation must be added to the permit.

9. Periodic Monitoring - VOC: Condition G.5 contains the recordkeeping requirements that the facility must follow in order to assure compliance with the VOC limit for the spray booth contained in condition G.3 of the permit. However, the recordkeeping requirements contained in condition G.5 are not sufficient. To assure compliance with the VOC limit for this unit, the permit must describe how the facility will calculate VOC emissions (e.g., whether an equation will be used for this purpose) and add further detail to the recordkeeping requirements. For example, the facility should be required to maintain records of the VOC content, density, and solids content of the compounds and solvents used at this emission unit.

10. Parametric Monitoring - Scrubber Control Systems: Conditions A.13, B.13, C.13, D.13, E.13 and F.14 of the permit specify monitoring of total pressure drop and inlet water pressure for the scrubber control systems. However, the permit fails to include the numerical ranges associated with the proper operation of the control equipment or a procedure for determining the appropriate values. To resolve this deficiency, the permit must specify the parametric range or the procedure that will be used to establish the parametric range that is representative of the proper operation of the control equipment and the frequency for re-evaluating the range for each unit. The permit must also include a condition requiring a performance test to be conducted if an emission unit operates outside of the acceptable range for a specified percentage of the normal operating time. The Department must set the appropriate percentage of the operating time that would serve as trigger for this testing requirement. If the Department revises the permit to include the parametric ranges, the statement of basis must contain an adequate demonstration (historical data, performance test, etc.) to support the numeric values being used to assure compliance with the emission limitations.

11. Regulatory Citations: Section III, conditions A.10, A.12.2, B.12.2, C.10, C.12.2, D.10, D.12.2, E.9, E.10, E.12.2 and H.7 fail to contain regulatory citations. As described in 40 C.F.R. § 70.6(a)(1)(i), the permit shall specify and reference the origin of and authority for each term and condition. The Department must include the appropriate regulatory citations for these conditions in the permit.

12. Appropriate Averaging Times: In order for the emissions standards for particulate matter (conditions A.5, B.5, C.5, D.5, E.5 and F.5), VOC's (conditions A.6, B.6, C.6, D.6, E.6, F.6 and G.3), and nitrogen oxides (conditions A.7, B.7, C.7, D.7, E.7 and F.7) contained in the permit to be practicably enforceable, the appropriate averaging times must be specified in the permit. An approach that can be used to address this deficiency is to include general language in the permit to indicate that

the averaging times for all specified emission standards are tied to or based on the run time of the test method(s) used for determining compliance. Therefore, we proposed the following language to address EPA's concern:

> "Unless otherwise specified, the averaging times for the applicable limits in this permit are tied to or based upon the run time of the test methods used for determining compliance."

13. Federally Enforceable Requirements: Section II, conditions 8 and 9 consist of control and work practice standards for VOCs and particulate matter, respectively. These conditions are labeled as "not federally enforceable." However, these conditions are federally enforceable because they are contained in the federally approved portion of the Florida SIP. Therefore, the permit must be changed to reflect that these conditions are federally enforceable.

    Also, conditions H.4.2, H.4.3 and H.4.4 are identified as not Federally enforceable. These conditions address monitoring and recordkeeping requirements for the facility which fall within the scope of the requirements of 40 C.F.R §70.6(a)(3), *Monitoring and Related Recordkeeping Requirements*, and are, therefore, Federally enforceable.

14. Insignificant Activities: Appendix I-1 contains the list of insignificant emissions units and activities at the facility. The list includes the Bagasse Handling System and the Bagasse Conveying System Baghouses as insignificant activities. As noted in objection issue no. 5, construction permit PSD-FL-077 contains applicable emission limiting standards for these units. Therefore, these units must to be removed from Appendix I-1.

15. Permit Shield: In the Proposed Permit Determination, Public Comments, item A, comment 4, the applicant requested the inclusion of "additional permit shield language," and the Department responded by saying that Appendix R-1 was incorporated into the permit. While in the Proposed Permit Determination the appendix appears to be intended as a permit shield, Section II, condition 7 does not state whether a shield from any requirements is provided. A mere summary of the requirements that are or are not applicable to the source does not constitute, by itself, a permit shield. Appendix R-1 is not allowable as a permit shield because the permitting authority has not made its own determination regarding the applicability of the requirements listed. Therefore, the Department must make its own determination regarding the applicability of the requirements listed and rewrite condition 7 of Section II to explicitly provide for a permit shield if that is the intent of these conditions and the appendix. Additionally, the appendix must

be identified in the cover page of the permit as part of the permit.

Appendix R-1, entitled, "Boiler Rule Applicability for Sugar Cane Growers Cooperative, Belle Glade," lists requirements indicated as either applicable or not applicable to the source and the justification of non-applicability for each of the non-applicable requirements is provided. Section II, condition 7, states the following: "Appendix R-1 contains tables of rules, both of the State of Florida and Federal Rules which the applicant Sugar Cane Growers Cooperative of Florida, through their consultant Golder Associates, have deemed either applicable or non-applicable. This appendix was supplied in total by Golder Associates and is included at the request of the applicant, Sugar Cane Growers Cooperative of Florida." In accordance with 40 C.F.R. §70.6(f)(1)(ii), a permit shield for non-applicable requirements must be supported by a written determination *from the permitting authority* that the requirements specifically identified are not applicable to the source.

Moreover, please note that the purpose of the permit shield provision at 40 C.F.R. §70.6(f)(1)(ii) is to clarify the applicability of certain requirements where that applicability is questionable or unclear. Region 4 recommends that the permitting authority not include a permit shield consisting of an extensive account of all requirements that are obviously not applicable to the source. The accuracy of such a shield is difficult to confirm, and appropriate enforcement action may be thwarted where errors are made.

II General Comments

1. General Comment - Please note that EPA reserves the right to enforce any noncompliance, including any noncompliance related to issues that have not been specifically raised in these comments. After final issuance, this permit shall be reopened if EPA or the permitting authority determines that it must be revised or revoked to assure compliance with applicable requirements.

2. Compliance Certification: Section II, condition 12 of the permit should specifically reference condition 51 of Appendix TV-3, which lists the compliance certification requirements of 40 C.F.R. §70.6(c)(5)(iii), to ensure that complete certification information is submitted to EPA.

3. Regulatory Citations: Several of the conditions in the proposed permit cite the facility's operating permit as the basis for requirements in the title V permit. (See: A.6, A.7, A.11.4 and 5, B.6, B.7, B.11.4 and 5, C.6, C.7, C.8.2, C.11.4 and 5, D.6, D.7, D.11.4 and 5.) While operating permit terms often are based on construction

permit requirements, operating permits are not Federally enforceable, therefore, citing such permits does not offer the appropriate regulatory citation for a requirement. Unless it is the Department's intention to make operating permit requirements Federally enforceable via the title V permit, EPA recommends that the Department replace all references to operating permits with the appropriate rule citations or use as basis the construction permits for the units as basis for the requirements.

For conditions A.5, C.5, D.5 and E.5, the permit cites PSD-FL-077 as the regulatory basis, however, that PSD permit does not address any of the boilers referred to in the conditions. Please incorporate the appropriate regulatory citations.

4. Section III, Conditions A.1, A.2, B.1, B.2, C.1, C.2, D.1, D.2, E.1, E.2, F.1.2, and F.2: Please add the words "On-spec" to "used oil" in order to more accurately describe the nature of the used oil allowed to be burned at this facility.

5. Section III, Conditions A.9, B.9, C.9, D.9: The Department should consider re-writing these conditions. The thermal efficiency of the boilers will be used to determine the heat input of the boilers, which will be used to determine compliance with the limits in the permit.

6. Section III, condition F.10: This condition appears to contradict the thermal efficiencies identified in condition F.1.1, which establishes a thermal efficiency of 62.5% when burning residue. Please clarify which should be the appropriate thermal efficiency that must be used when calculating the emissions from this boiler.

7. Periodic Monitoring: As you are aware, on April 14, 2000, the U.S. Court of Appeals for the D.C. Circuit issued an opinion addressing industry's challenge to the validity of portions of EPA's periodic monitoring guidance. See, Appalachian Power Co. v. EPA, No. 98-1512 (D.C. Cir., April 14, 2000). The Court found that "State permitting authorities [ ] may not, on the basis of EPA's guidance or 40 C.F.R. 70.6(a)(3)(i)(B), require in permits that the regulated source conducts more frequent monitoring of its emissions than that provided in the applicable State or Federal standard, unless that standard requires no periodic testing, specifies no frequency, or requires only a one-time test." While the permit contains testing from "time to time," as discussed in the court opinion, EPA does not consider these conditions sufficient to ensure compliance. In light of the court case, EPA is withholding formal objection regarding the adequacy of the periodic monitoring included in the permit for the following pollutants: Visible Emissions (VE),

Nitrogen Oxides (NO_x), Carbon Monoxide (CO) and Volatile Organic Compounds (VOC). EPA's concerns are outlined below:

The permit does not contain adequate periodic monitoring for VE, NO_x, VOC and CO, as identified in conditions A.10, B.10, C.10, E.10 and F.11 . Although the permit requires annual testing for all of these pollutants, this infrequent testing is not sufficient to provide a reasonable assurance of compliance with emission limits. All Title V permits must contain monitoring that is sufficient to assure compliance with the applicable permit requirements. In particular, 40 C.F.R. Part 70.6 (a)(3)(i)(B) requires that permits include periodic monitoring that is sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the applicable emission limits. In addition to assuring compliance, a system of periodic monitoring will also provide the source with an indication of their emission unit's performance, so that periods of excess emissions and violations of the emission limits can be minimized or avoided. Therefore, the permit should include a periodic monitoring scheme that will provide data which is representative of the source's actual performance.

Since some of the emission units are equipped with control devices, the best approach to address the periodic monitoring requirements for these units is to utilize parametric monitoring of the control equipment. In order to do this, a correlation needs to be developed between the control equipment parameter(s) to be monitored and the pollutant emission levels. The source needs to provide an adequate demonstration (historical data, performance test, etc.) to support the approach used. In addition, an acceptable performance range for each parameter that is to be monitored should be established. The range, or the procedure used to establish the parametric ranges that are representative of proper operation of the control equipment, and the frequency for re-evaluating the range should be specified in the permit. Also, the permit should include a condition requiring a performance test to be conducted if an emission unit operates outside of the acceptable range for a specified percentage of the normal operating time. The Department should set the appropriate percentage of the operating time that would serve as trigger for this testing requirement.

As an alternative to the approaches described above, a technical demonstration can be included in the statement of basis explaining why the State has chosen not to require any additional visible emissions testing for these units. The demonstration needs to identify the rationale for basing the compliance certification on data from a short-term test performed once a year.

8. Section III, condition H.4.1, item 5: It is our understanding that it is the Department's policy to not allow the use of the "rebuttable presumption" under 40 C.F.R. §279.10(b)(1). In order to make this requirement consistent with other title V permits issued by the Department, the Total Halogens limit should be changed from 4,000 ppm to 1,000 ppm.